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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/682,062

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Jay S. Walker

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04/06/2011

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EXAMINER

PIERCE, DAMON JOSEPH

ART UNIT

PAPER NUMBER

3718

MAIL DATE

DELIVERY MODE

04/06/2011

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/682,062	Applicant(s) WALKER ET AL.	
	Examiner DAMON PIERCE	Art Unit 3718	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 2/28/11.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 49-68 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 49-68 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>3/2/11</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

1. The examiner acknowledges the amendments of claims filed on 2/28/11. Claims 1-48 and 69 are cancelled. Thus, Claims 49-68 are pending.

Specification

2. The disclosure is objected to because of the following informalities: pg. 133, line 30 includes the recitation, "no", where it appears it should state, "not".

Appropriate correction is required.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 49-50, 53-54, 57, 59-60, 63-64, and 67 are rejected under 35 U.S.C. 102(e) as being anticipated by US Pub. # 2003/0203756 to Jackson.

Regarding claims 49, 59, Jackson discloses **a method for facilitating play of a wagering game on a gaming device** (abstract and pargs. 13-14, discloses game code within a wagering game system), comprising:

(as required by claim 49) **prior to allowing play of a wagering game including a particular feature and via a processor of a device operable to facilitate the wagering game, determining whether an authorization code for enabling play of the wagering game with the particular feature has been received from a regulatory authority** (lacking clear distinguishing features, Figs. 1-2 discloses wagering game apparatus including a processor, para. 101 discloses a particular feature set, para. 106 discloses regulatory authorities providing digital signatures interpreted as an authorization code in wager game systems, and para. 145 discloses verification at the start of each game played);

(as required by claim 59) **prior to allowing play of a wagering game on a particular gaming device, determining via a processor of a device operable to facilitate the wagering game whether an authorization code for enabling play of the wagering game on the particular gaming device has been received from a regulatory authority** (lacking clear distinguishing features, Figs. 1-2 discloses wagering game apparatus including a processor, and para. 106 discloses regulatory authorities providing digital signatures interpreted as an authorization code in wager game systems, where verification of the digital signature(s) enables game play);

(as required by claims 49, 59) **verifying, via the processor, an expiration condition for the authorization code** (para. 111, discloses expiration of digital signatures); and

only if the expiration condition has not yet been met, allowing play of the wagering game (as required by claim 49) **with the particular feature**, and (as required by claim 59) **on the particular gaming device** (para. 111, discloses expiration of digital

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signatures, thus, when a digital signature has not expired, game play is still allowed at that the gaming device including the particular feature set).

50, 60, Jackson discloses the method, wherein the expiration condition is a date on which the authorization code is no longer valid (see para. 111).

53, 63, Jackson discloses the method, further comprising: prior to allowing play of the wagering game, confirming via the processor that an authorization code disallowing play of the wagering game with the particular feature has not been received from the regulatory authority (lacking clear distinguishing features, see para. 80, where upon verification that a game code is certified and/or approved by a regulatory authority is an indication that a code disallowing play has not been received from the regulatory authority).

54, 64 Jackson discloses the method further comprising: updating, via the processor, data corresponding to the expiration condition after allowing play of the wagering game (see paras. 111-112).

57, 67, Jackson discloses the method, further comprising: requesting, via the processor, a new authorization code from the regulatory authority if the expiration condition has been met (lacking distinguishing features, see para. 111 discloses expiry and replacement data related to digital signature).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148

USPQ 459 (1966), that are applied for establishing a background for determining

obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

7. Claims 51-52, 55-56, 58, 61-62, 65-66, and 68 are rejected under 35 U.S.C.

103(a) as being unpatentable over US Pub. # 2003/0203756 to Jackson in view of

Nguyen (US 2002/0071557 A1).

Regarding Claims 51, 52, 55, 56, 61, 62, 65, 66, Jackson fails to explicitly disclose the following elements:

(as required by claims 51, 61) wherein the expiration condition is a maximum number of plays of the wagering game for which the authorization code is valid;

(as required by claims 52, 62) wherein the expiration condition is a maximum sum of wagers for which the authorization code is valid;

(as required by claims 55, 65) wherein updating data comprises updating the sum of wagers placed on the wagering game based on a wager currently placed on the wagering game;

(as required by claims 56, 66) updating data comprises updating a number of plays of the wagering game played based on a current play of the wagering game; and

(as required by claims 58, 68) purchasing the authorization code from the regulatory authority.

However, Nguyen discloses (as required by claims 51, 61) wherein the expiration condition is a maximum number of plays of the wagering game for which the authorization code is valid (lacking clear distinguishing features, pargs. 18, 43, 48, 69, discloses a per-use license, and parg. 76, discloses game usage data); (as required by claims 56, 66) updating data comprises updating a number of plays of the wagering game played based on a current play of the wagering game (pargs. 69 and 73, discloses game usage data associated with license expiration data); (as required by claims 52, 62) wherein the expiration condition is a maximum sum of wagers for which the authorization code is valid (parg. 76 discloses license expiration associated with game usage data, where in this case, the game usage data corresponds to a sum of wagers since each game has an required wager amount required to play, thus, the game usage data may include total wager amounts as disclosed in US Pat. 5,470,079 to LeStrange et al); (as required by claims 55, 65) wherein updating data comprises updating the sum of wagers placed on the wagering game based on a wager currently placed on the wagering game (lacking clear distinguishing features, parg. 76, discloses game usage data including the number of times a gaming license has been used, including records of wagering and game play totals); and (as required by claims 58, 68) purchasing the authorization code from the regulatory authority (see pargs. 20, 48, 69, and 77, discloses gaming license associated with billing data).

The gaming system of Jackson would have motivation to use the teachings of Nguyen in order to ensure game owners continually receive monetary compensation based on use of their respective games.

Thus, it would have been obvious to a person of ordinary skill in the art at the time of the in to modify the gaming system of Jackson with the teachings of Nguyen in order to generate a continuous stream of revenue for game owners as long as their game is relatively popular.

Response to Arguments

8. Applicant's arguments filed 2/28/11 have been fully considered but they are not persuasive.

9. On pps. 8-9, Applicant states that Jackson fails to teach or suggest the following claim limitations: (regarding claim 49) prior to allowing play of a wagering game with a particular feature and via a processor of a device operable to facilitate the wagering game, determining whether an authorization code for enabling play of the wagering game with the particular feature has been received from a regulatory authority; verifying, via the processor, an expiration condition for the authorization code; and only if the expiration condition has not yet been met, allowing play of the wagering game with the particular feature; and (regarding claim 59) prior to allowing play of a wagering game on a particular gaming device, determining via a processor of a device operable to facilitate the wagering game whether an authorization code for enabling play of the wagering game on the particular gaming device has been received from a regulatory authority; verifying, via the processor, an expiration condition for the authorization code; and only if the expiration condition has not yet been met, allowing play of the wagering game on the particular gaming device. In addition, on pps. 10-12, Applicants states that Jackson does not describe a regulatory agency providing its digital signature or private key to the casino; in Jackson, there is no step of determining whether the digital signature/private

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key has been received from the regulatory authority; and Jackson does not describe the casino as determining the expiration condition for the digital signature/private key.

However, the Examiner respectfully disagrees. Jackson discloses a set of casino game data in a computerized gaming apparatus (pargs. 99-100), digital signatures are that of a regulatory agency (parg. 106), thus, the digital signatures are interpreted as provided via a respective regulatory agency, and digital signatures expire after a certain period of time (parg. 111). Therefore, the game data set(s) provided to a casino's gaming apparatus includes digital signatures generated from a regulatory agency or game code manufacturer/designer, where the digital signatures provided with the game data set(s) include an expiration time.

Conclusion

10. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

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11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to DAMON PIERCE whose telephone number is (571)270-1997. The examiner can normally be reached on 8AM-4PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Vo can be reached on 571-272-4690. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

12. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

DJP

/Peter DungBa Vo/
Supervisory Patent Examiner, Art Unit 3718